

KELLY & POVICH, P.C.
ATTORNEYS AT LAW
1101 30th Street, N.W., Suite 300, Washington, D.C. 20007

DOCKET FILE COPY

Writer's Direct Dial:
(202) 973-8102

EX PARTE OR LATE FILED

Telephone: (202) 342-0460
Facsimile: (202) 342-0458

July 21, 1997

William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, DC 20554

JUL 21 1997

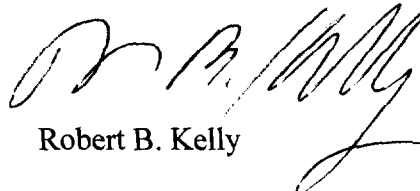
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Ex Parte Submission, WT Docket 97-82

Dear Mr. Secretary:

Please find enclosed two copies of an *ex parte* submission in WT Docket 97-82. If there are any questions, please contact this office at (202) 973-8100.

Sincerely,



Robert B. Kelly

cc: The Honorable Reed E. Hundt, Chairman
Jackie Chorney, Legal Advisor
Commissioner James H. Quello
Rudolfo Baca, Legal Advisor
Commissioner Susan Ness
David Sidall, Legal Advisor
Commissioner Rachelle Chong
Suzanne Toller, Legal Advisor
Daniel Phythion, Chief, Wireless Telecommunications Bureau
David Furth, Chief, Commercial Radio Division, WTB
John Cimko, Chief, Policy Division, WTB
Kathleen Ham, Chief, Auctions and Industry Analysis Division, WTB
Sande Taxali, Auctions and Industry Analysis Division, WTB
Gregory Rosston, Chief Economist, WTB

No. of Copies rec'd
List ABCDE

021

EX PARTE OR LATE FILED

Fidelity CAPITAL

DOCKET FILE COPY ORIGINAL

July 21, 1997

The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

RECEIVED

JUL 21 1997

Re: Ex Parte Submission, WT Docket 97-82

Dear Mr. Chairman:

On behalf of Fidelity Capital ("Fidelity") this letter is submitted as a written ex parte submission concerning the FCC's on-going deliberations on the C-block PCS installment payment obligations. Fidelity and its affiliates have been involved in the development of PCS technologies since the earliest days of the industry. To this end, Fidelity was one of the founding investors of GO Communications ("GO") which was one of the most active bidders in the C-block auction, albeit one who ultimately withdrew from the auction.

GO expended over \$5 million in the planning and prosecution of its C-block business plan. During this process, GO employed 30 people dedicated to starting a venture that would provide meaningful competition to existing wireless service providers in markets throughout the nation. We took seriously the FCC's pre-auction admonition that winning bidders would be held to their bids and severely penalized in accordance with the Commission's Rules in the event of default and planned and bid accordingly. GO's auction planning carefully assessed the potential market for C-block services, the capital available to fund both GO's winning bids and the construction of its systems. GO, indeed, was the high bidder on over 25 licenses covering over 50 million "pops" during the C-block auction. Yet, each time in every market other bidders apparently valued those licenses more highly than GO's business plan thought practical.

We are aware that the Commission now has before it a wide range of proposals to alleviate the financial difficulties that certain C-block license holders are facing, including proposals to reduce the principal amounts owed on the winning bids, to delay further any installments to be made on those bids or to provide the winning bidders a grace period to return their licenses without further penalties. Fidelity understands the desire to provide those winning bidders that cannot meet their obligations some relief to avoid serial bankruptcies of C-block licensees and the delay in C-block service to the public which would inevitably result from bankruptcy litigation. However, any solution to these financial difficulties that alters the basic obligations assumed by the winning bidders and allows those bidders to retain their licenses under more favorable payment terms than their winning bids will work significant inequities upon C-block participants like GO and will wholly undermine future FCC spectrum auctions and the integrity of the Commission's processes.

The Honorable Reed E. Hundt

July 21, 1997

Page 2

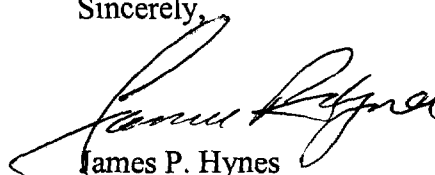
As a founding investor in GO, Fidelity was aware that the FCC offered no guarantees or assurances of success either in the auction or in the marketplace. We were not and could not have been aware though that, despite its stern warnings before the auction, the FCC would consider reducing the winning bids after the auction. Had we known that, of course, either GO's bidding strategy would have been dramatically different, or GO simply would not have participated in such a fundamentally unfair process. Aside even from its suspect legality, should the FCC now allow the winning C-block bidders to retain their licenses under reduced and relaxed payment terms, we do not see how future auctions may be credibly held.

Accordingly, should it appear that the FCC can not recoup in full the winning bid amounts from the existing C-block licensees, Fidelity believes that any relief granted from those winning bids must accord fairness to all parties, including other C-block auction participants. To this end, we believe that the license return program has merit. This would allow those C-block licensees that cannot support their winning bids to return their licenses without penalty. This will permit the unwinding of difficult circumstances without protracted litigation clouding the FCC's reauction of those licenses. In addition, the license return program will mitigate the difficulties faced by the licensees without unduly rewarding them for either unsuccessful business planning or simple license speculation. At the same time, the reauctioning of returned licenses will allow other parties, like GO, to bid anew should they so choose.

We do not share the concern on balance that a reauctioning of C-block licenses may result in a delay in the introduction of service in some markets. In our view, a sensible reauctioning of the C-block licenses will place those licenses in the hands of licensees most able to construct their systems and bring service to the public in a timely manner.

Fidelity appreciates the opportunity to have its views on this matter considered. Should there be any questions, please contact this office.

Sincerely,



James P. Hynes
Managing Director